

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

DOCKET NO. 3:15CR4-FDW

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	ORDER APPROVING SETTLEMENT,
v.)	DISMISSING THE FORFEITURE AS TO
)	ONE ASSET, AND ORDERING
THOMAS E. CARBONE,)	FORFEITURE OF A SUBSTITUTE RES
)	(BY CONSENT)
Defendant.)	
)	
<hr/> <u>PETITION OF JOANN CARBONE</u>)	
)	

THIS MATTER is before the Court on the government's motion for an order approving a settlement in an ancillary forfeiture proceeding regarding a 2011 Toyota Tundra truck. The truck was listed in the Consent Order and Judgment of Forfeiture filed on January 29, 2015 (Doc. 12) (the "preliminary order"). The government has stated that this truck is registered to Joann Carbone, who is unrepresented herein but has an attorney and may be deemed to have standing as a third-party petitioner under 21 U.S.C. § 853(n) and Fed. R. Crim. P. 32.2(c) by virtue of her consent to this settlement. A Stipulation and Consent to Settlement Order has been signed by Ms. Carbone, who is the defendant's mother, and by her attorney, and has been submitted with the government's motion.

Based on the record in this case and the stipulations of the parties, the Court finds as follows:

1. Petitioner is deemed to have filed a timely petition in response to the preliminary order and to have standing herein.
2. The Court has jurisdiction over the subject property.
3. Petitioner has a legal ownership interest in the property, which is subject to forfeiture under applicable statutes.
4. The United States and Petitioner have agreed to a settlement regarding forfeiture and the interests asserted by Petitioner, in pertinent part as follows:

(a) The United States will file a motion to dismiss the forfeiture with prejudice, upon compliance with the following terms and conditions and as ordered by the Court.

(b) Petitioner will tender an official check for \$2,000.00, payable to the United States Marshals Service, as directed by the government.

(c) The Court's order will provide that forfeiture will be dismissed with prejudice as to the subject property and that the official check will be forfeited herein as a substitute *res*.

(d) Petitioner hereby releases and forever discharges the United States, its agents, servants and employees, its successors or assigns, and all state or local governmental entities or law enforcement agencies in North Carolina and their agents, servants and employees, their heirs, successors, or assigns, from any and all actions, causes of action, suits, proceedings, debts, dues, contracts, judgments, damages, claims, and/or demands whatsoever in law or equity which petitioner or her heirs, successors, or assigns ever had, now have, or may have in the future in connection with this investigation, prosecution, and forfeiture.

Petitioner also consents to a dismissal with prejudice of a related civil forfeiture case against the subject property, No. 3:15cv51-FDW, and stipulates that, as to both cases, each party shall bear its own costs, including attorney fees.

IT IS THEREFORE ORDERED:

1. The Court adopts the foregoing stipulations of the parties and approves this settlement.
2. The preliminary order is hereby amended to delete the 2011 Toyota Tundra truck, and forfeiture as to the truck is dismissed with prejudice.
3. The sum of \$2,000.00, paid by official check to the Marshals Service, is hereby forfeited as a substitute *res* for the truck.
4. Each party shall bear its own costs herein, including attorney fees.



Frank D. Whitney
Chief United States District Judge

